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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,466	12/26/2000	Deguang Zhu		3400

27676 7590 11/19/2003
DEGUANG ZHU
718 WEST 171ST STREET, APT. 33
NEW YORK, NY 10032

EXAMINER

LAMM, MARINA

ART UNIT PAPER NUMBER

1616

DATE MAILED: 11/19/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/748,466

Applicant(s)

ZHU ET AL.

Examiner

Marina Lamm

Art Unit

1616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see NOTE above.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

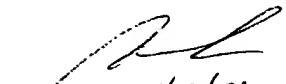
Claim(s) objected to: _____.

Claim(s) rejected: 5,6 and 9-17.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 2. NOTE: the rejections of the record are maintained for the reasons set forth in the Office Actions mailed 2/11/03 and 7/21/03 (papers #8 and 10, respectively). The Applicant's arguments with respect to the Weiner reference have been addressed previously. See paper #10. With respect to the Hinson reference, the Applicant argues that "the method of the present invention includes applying the compositions of the present invention to skin or scalp, not skin lesions, skin ulcers, or skin maladies" as taught by Hinson. See p. 8 of the remarks. In response, the instant claims recite the step of "topically applying", thus, the method of the instant invention is not limited to applying the claimed compositions to the "healthy" skin. Further, the Applicant argues that Hinson does not teach treating physiological changes in the skin as claimed in the instant claims. See p. 8 of the remarks. In response, it is noted that the reference teaches the claimed method step (i.e. "topically applying"). Since the method step is the same, the result will inherently be the same.


11/14/03
THURMAN A. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Examiner-Initiated Interview Summary

Application No.

09/748,466

Applicant(s)

ZHU ET AL.

Examiner

Marina Lamm

Art Unit

1616

All Participants:

(1) Marina Lamm.

(2) Jay Lessler.

Status of Application: _____

(3) _____

(4) _____

Date of Interview: 7 November 2003

Time: _____

Type of Interview:

- ☒ Telephonic
☐ Video Conference
☐ Personal (Copy given to: ☐ Applicant ☐ Applicant's representative)

Exhibit Shown or Demonstrated: ☐ Yes ☒ No

If Yes, provide a brief description:

Part I.

Rejection(s) discussed:
of record

Claims discussed:
pending

Prior art documents discussed:
none

Part II.

SUBSTANCE OF INTERVIEW DESCRIBING THE GENERAL NATURE OF WHAT WAS DISCUSSED:

Examiner proposed an amendment of claims which would place the application in condition for allowance. The copy of the proposed amendment is attached. The Applicant did not accept the proposed changes.

Part III.

- ☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability.
- ☒ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview did not result in resolution of all issues. A brief summary by the examiner appears in Part II above.


(Examiner/SPE Signature)

(Applicant/Applicant's Representative Signature – if appropriate)